

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY, PHARMACIA,
LLC, and SOLUTIA, INC.,

Plaintiffs,

vs.

MAGNETEK, INC.,
GENERAL ELECTRIC CO.,
PARAMOUNT GLOBAL,
KYOCERA AVX COMPONENTS
CORNELL-DUBILIER ELECTRONICS, INC.,
and THE GILLETTE COMPANY, LLC,

Defendants.

CASE NO: 4:23-cv-00204-HEA

**DEFENDANTS GENERAL ELECTRIC CO., PARAMOUNT GLOBAL, KYOCERA
AVX COMPONENTS CORP., CORNELL-DUBILIER ELECTRONICS, INC., AND THE
GILLETTE COMPANY, LLC'S JOINT MOTION TO DISMISS COUNTS I-IV AND VII
OF PLAINTIFFS' FIRST AMENDED PETITION**

Defendants General Electric Co. (“GE”), Paramount Global (“Paramount”), Kyocera AVX Components Corp. (“KAVX”), Cornell-Dubilier Electronics, Inc. (“CDE”), and the Gillette Company, LLC (“Gillette”) by and through their respective undersigned counsel, respectfully submit this motion to dismiss Counts I-IV and VII of Plaintiffs Monsanto Company (“New Monsanto”), Pharmacia, LLC (“Pharmacia” or “Old Monsanto”) and Solutia, Inc.’s (“Solutia”, collectively with New Monsanto and Pharmacia, the “Plaintiffs”) First Amended Petition in the above-captioned matter pursuant to Federal Rule of Civil Procedure 12(b)(6).¹

1. Plaintiffs assert breach of contract (Counts I and II), declaratory judgment (Counts III and IV) and equitable contribution (Count VII) claims relating to indemnity agreements for

¹ Defendant Magnetek, Inc. (“Magnetek”) is not joining in this Motion.

costs and liabilities resulting from the sale of Polychlorinated Biphenyls (“PCBs”) to Defendants (“SUs”).

2. First, Counts I through IV should be dismissed because Plaintiffs fail to allege that that the underlying liabilities for which they seek defense and indemnity fall within the scope of any particular Defendant’s SU. Plaintiffs improperly treat Defendants as a collective group despite the Defendant-specific differences in each Defendant’s specific SU.

3. Second, Counts III and IV as to Defendants’ duty to defend or indemnify future lawsuits and to indemnify ongoing lawsuits should be dismissed as premature and unripe because they seek declarations of rights regarding events that have not occurred and may never occur.

4. Third, Counts I through IV should be dismissed as to Plaintiffs Old Monsanto and New Monsanto for lack of standing to enforce the SUs.

5. Fourth, Count VII, for equitable contribution, should be dismissed because, among other reasons, Plaintiffs do not allege that Plaintiffs and Defendants are joint tortfeasors liable to the PCB Lawsuit plaintiffs for the same injury

6. Defendants have filed a supporting memorandum with this Motion which they incorporate by this reference.

WHEREFORE, Defendants GE, Paramount, CDE, KAVX, and Gillette request that the Court dismiss Counts I-IV and VII as to them in Plaintiffs’ First Amended Petition, and further pray for such other and further relief as the Court deems just and proper.

Dated: May 1, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE (CM/ECF)

I hereby certify that on May 1, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notification of such filing to all counsel and parties of record who have appeared.

/s/ Peter W. Herzog III